THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 15897 OF 2005

Date: 20.06.2006

Between:

Dasari Varalaxmi.

... Petitioner

and

Commissioner of Police, Visakhaptnam City, Visakhapatnam.

... Respondent.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 15897 OF 2005

ORDER: (per Hon'ble Sri Justice B. Prakash Rao)

Heard Sri J.R. Manohar Rao, learned Counsel for the Petitioner and the learned Government Pleader for Services-I and at their request the writ petition is taken up for disposal.

The petitioner who is a Head Constable (woman) files this writ petition *inter alia* seeking for the certiorari assailing the orders in O.A.NO. 7974 of 2003 dated 25.04.2005 dismissing her application filed under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the proceedings in D.O.No. 493/2003/C.No. 3458/A1/2003 dated 19.08.2003 passed by the respondent herein. On contest, the Tribunal did not find favour with the petitioner and dismissed the petition on the ground that the petitioner was not qualified and the qualified candidates are available and as such she is not entitled to continue as Head Constable. Against this, the present writ petition.

This Court initially granted interim suspension on 21.07.2005. Having regard to the submissions on either side and the only question which arises for consideration is as to whether in the facts and circumstances the impugned action of the respondents herein in reverting the petitioner to the post of Head Constable is justified. There is no dispute to the fact that the

petitioner was promoted though out of turn, subsequently she could not be sent for training, in view of the fact that an enquiry was pending, though the other similarly situated candidates were sent for training and they have been qualified. On a reading of the impugned order dated 19.08.2003 clearly shows that since the petitioner was facing an oral enquiry charge, she was reverted as Woman Constable with effect from the date of issue of the order of the 1st respondent. Whereas now the stand taken by the respondent both before the Tribunal and also before this Court was that since the petitioner is not qualified, she was reverted to the post of Woman Constable, which is contrary to the reasons shown in the order of the respondent dated 19.8.2003. On enquiry the learned Government Pleader informs that the enquiry is still continuing and it is not yet finalized. Having regard to the fact that the petitioner could not be sent for training and there is also no reason for the enquiry to be kept pending, though similarly situated candidates were already permitted to be sent for training, she can as well be sent for training now. In view of the aforesaid discussion, especially since the order of the respondent does not contain any valid reasons and both the reasons assigned in the order of the respondent and shown before the Tribunal and this Court are running contrary to each other, we do not find any reasons to sustain the order of the Tribunal.

The writ petition is allowed and the impugned order dated 19.08.2003 is set aside.

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B.PRAKASH RAO,J

Date: 20-06-2006

RAMESH RANGANATHAN,J

MRKR